

NTSB Order No. EA-4493

Adopted by the NATIONAL TRANSPORTATION SAFETY BOARD  
at its office in Washington, D.C.  
on the 15th day of October, 1996

Respondent .

Docket SE-14598

<sup>1</sup>An excerpt from the hearing transcript containing the initial decision is attached.

62340605), with airframe and powerplant ratings, for his alleged violations of sections 43.12(a)(1), 43.15(a)(1), and 43.13(a) of the Federal Aviation Regulations ("FAR," 14 CFR Part 43).<sup>2</sup> We deny the appeal.<sup>3</sup>

The Administrator's July 29, 1996 Emergency Order of

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<sup>2</sup>FAR sections 43.12(a)(1), 43.15(a)(1), and 43.13(a) provide as follows:

**§ 43.12 Maintenance records: Falsification, reproduction, or alteration.**

(a) No person may make or cause to be made:

(1) Any fraudulent or intentionally false entry in any record or report that is required to be made, kept, or used to show compliance with any requirement under this part....

**§ 43.15 Additional performance rules for inspections.**

(a) General. Each person performing an inspection required by Part 91, 123, 125, or 135 of this chapter, shall--

(1) Perform the inspection so as to determine whether the aircraft, or portion(s) thereof under inspection, meets all applicable airworthiness requirements....

**§ 43.13 Performance rules (general).**

(a) Each person performing maintenance, alteration, or preventive maintenance on an aircraft, engine, propeller, or appliance shall use the methods, techniques, and practices prescribed in the current manufacturer's maintenance manual or Instructions for Continued Airworthiness prepared by its manufacturer, or other techniques, and practices acceptable to the Administrator, except as noted in § 43.16. He shall use the tools, equipment, and test apparatus necessary to assure completion of the work in accordance with accepted industry practices. If special equipment or test apparatus is recommended by the manufacturer involved, he must use that equipment or apparatus or its equivalent acceptable to the Administrator.

<sup>3</sup>The Administrator has filed a reply opposing the appeal.

Revocation alleged, among other things, the following facts and circumstances concerning the respondent:

2. On or about September 1, 1995, you performed a 100 hour inspection on N6778W, a Piper model PA-28-140, serial number 28-20906, certified it as airworthy and returned it to service.

3. On or about August 31, 1995, you made the following intentionally false or fraudulent statements in the aircraft logbooks regarding airworthiness directives:

- a. Although you stated in the N6778W aircraft logbooks that you accomplished AD 67-12-06 by conducting a visual and dye penetrant inspection for corrosion of the aileron and stabilator balance weight tubes and the rudder horn assembly in accordance with Piper Service Bulletin Number 240, this was in fact not done.
- b. Although you stated in the N6778W aircraft logbooks that AD 70-26-04 was accomplished by performing a dye penetrant check and eddy current inspection, this in fact was not done.
- c. Although you stated in the N6778W aircraft logbooks that you performed a visual and dye penetrant inspection for the purpose of compliance with AD 70-18-05, this was in fact not done.
- d. Although you stated in the N6778W aircraft logbooks that you performed a visual and dye penetrant inspection in order to accomplish AD 72-08-06, this in fact was not done.
- e. Although you stated in the N6778W aircraft logbooks that you removed, inspected and reinstalled the stabilator hinge attach fittings in order to accomplish AD-72-14-07, this in fact was not done.
- f. Although you stated in the N6778W aircraft logbooks that you installed the placard required by AD-72-24-02, the placard was not in fact installed.
- g. Although you stated in the N6778W aircraft logbooks that you replaced the oil cooler hoses in order to accomplish AD-76-25-06, the hoses were in fact not replaced even though they had been in service on this aircraft in excess of the 1000

hour life limit as specified by the AD.

- h. You documented in the N6778W aircraft maintenance logs on September 1, 1995 that the batteries used in the emergency locator transmitters (ELT) were due replacement in September of 1996, when in fact the actual replacement date was October of 1994 as indicated on the batteries themselves.

4. At the time you approved N6778W for return to service, the aircraft was not in an airworthy condition and did not meet all applicable airworthiness requirements in that the discrepancies existed:

- a. The airworthiness directives listed in paragraph 3(a) through (g) above were not accomplished.
- b. Corrosion existed in the area of the wing spar carry through and was apparent throughout the aircraft wing and fuselage structure.
- c. Cracks existed in the propeller spinner and attaching bulkhead and the cracks had been stop drilled and covered with duct tape.
- d. The attaching hardware for the engine muffler clamp was not approved aviation hardware and the bolt was not a standard bolt approved for use in aviation.
- e. Several clamps used to secure the engine control cables were of the incorrect type, missing insulators, improperly attached an[d] in general poor condition. Additionally one improperly secured cable had been chafing the engine mount tube and caused a deep groove to be worn in that tube.
- f. The condition of the alternator drive belt was poor.

The law judge concluded that, despite the respondent's testimony that he had performed a thorough inspection and that in his opinion the aircraft was airworthy when he returned it to service, the evidence advanced in support of the Administrator's charges, primarily through two percipient mechanic witnesses, was "overwhelming." I.D. at 207. The law judge, in short, was

persuaded by the evidence that the aircraft must have exhibited the alleged discrepancies when the respondent's inspection was supposed to have occurred and, therefore, the respondent had purposefully falsified his aircraft's logbooks so that he could sell it without performing the maintenance necessary to restore it to an airworthy condition.

Respondent's three-page appeal brief consists mostly of a listing of the different pieces of documentary and testimonial evidence with which he takes issue; however, the brief does not identify any basis for concluding that the law judge improperly weighed the evidence the parties submitted, admitted evidence that should have been excluded, or rejected testimony that should have been credited.<sup>4</sup> In other words, the brief does not even allege, much less establish, any error or abuse of discretion that the law judge might have committed in resolving the parties' disparate accounts of the condition of the aircraft at various points in time.<sup>5</sup> Instead, the brief in effect reveals no more

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<sup>4</sup>The respondent also sent the September 25, 1996 facsimile document we are treating as his appeal brief to the U.S. Court of Appeals in Cincinnati, Ohio. The Court advised that it would notify him of our acceptance of the document in furtherance of the timely notice of appeal he had filed with us from the law judge's decision on September 21, 1996.

<sup>5</sup>Section 821.48(b) of the Board's Rules of Practice, 49 CFR Part 821, specifies that:

Each appeal brief shall set forth in detail the objections to the initial decision, and shall state whether such objections are related to alleged errors in the law judge's findings of fact and conclusions or alleged errors in his order. It shall also state the reasons for such objections and the relief requested.

than respondent's disagreement with the law judge's findings and conclusions and with the Administrator for prosecuting the case.

In the absence of any matter warranting Board review on appeal, the initial decision will be affirmed.<sup>6</sup>

**ACCORDINGLY, IT IS ORDERED THAT:**

1. The respondent's appeal is denied; and
2. The initial decision affirming the Emergency Order of Revocation is affirmed.

HALL, Chairman, FRANCIS, Vice Chairman, HAMMERSCHMIDT, GOGLIA, and BLACK, Members of the Board, concurred in the above opinion and order.

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<sup>6</sup>See Section 821.49 of the Board's Rules of Practice. That rule provides, in part, that the Board will consider only the following issues on an appeal: "(a) Are the findings of fact each supported by a preponderance of reliable, probative, and substantial evidence? (b) Are conclusions made in accordance with precedent and policy? (c) Are the questions on appeal substantial? (d) Have any prejudicial errors occurred?"